

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

LARRY HENDRIX,

Defendant.

ORDER

08-cv-274-bbc

06-cr-54-bbc

This case is before the court on a limited remand from the Court of Appeals for the Seventh Circuit with instructions for this court to vacate its order entered on May 20, 2009 and dismiss defendant's Motion for Relief from Judgment, dkt. 13, for lack of jurisdiction.

Defendant has filed and appealed one motion brought under § 2255. Section 2255 prohibits him from filing a another motion to modify his sentence without first obtaining the permission of the court of appeals to do so. Nunez v. United States, 96 F.3d 990 (7th Cir. 1996).

ORDER

IT IS ORDERED that the order entered herein on May 20, 2009, is VACATED.

FURTHER, IT IS ORDERED that defendant's Motion for Relief From Judgment dated May 14, 2009, dkt. 13, is construed as a motion under 28 U.S.C. § 2255 and is DISMISSED for lack of jurisdiction in the absence of a showing by defendant that he has received the permission of the Court of Appeals for the Seventh Circuit to file a second collateral attack.

Entered this 16th day of December, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge